United Nations CRC/C/OPAC/YEM/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Yemen under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of Yemen (CRC/C/OPAC/YEM/1) at its 1850th meeting (see CRC/C/SR.1850) held on 15 January 2014, and adopted at its 1875th meeting, held on 31 January 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/YEM/Q/1/Add.1). The Committee expresses its appreciation of the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's fourth periodic report under the Convention (CRC/C/YEM/CO/4) as well as those on its initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/YEM/CO/1), adopted in October 2009.

II. General observations

Positive aspects

4. The Committee welcomes the accession or ratification by the State party of:

(a) Geneva Conventions of 1949, in July 1970, and the Additional Protocols I and II thereto, in April 1990;

(b) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, in September 1998.

* Adopted by the Committee at its sixty-fifth session (13–31 January 2014).

5. The Committee welcomes the various positive measures taken in those areas relevant to the implementation of the Optional Protocol, in particular:

(a) The issuance of a Presidential Decree prohibiting the recruitment of children in the Yemeni Armed Forces in November 2012;

(b) Approval by the Cabinet, in September 2013, of the action plan to end and prevent the recruitment and use of children in the Yemeni Armed Forces, in line with Security Council resolutions 1612 (2005), 1882 (2009) and 1998 (2011);

(c) The endorsement of the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups, and the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups by Cabinet resolution 212 (2012);

(d) The cooperation of the State party with the Working Group of the Security Council on Children and Armed Conflict and the Special Representative of the Secretary-General for Children and Armed Conflict.

III. General measures of implementation

Legislation

6. The Committee notes as positive the entry into force of Act No. 19 (2004), which incorporates the Optional Protocol into the domestic legal system. However, it expresses its concern at the limited measures that have been taken to ensure its effective implementation. It also notes that the State party started, in 2012, a comprehensive review of its domestic legislation on military matters to harmonize it with international standards; however, the results of that review have not yet being translated into a binding law.

7. **The Committee urges the State party to comply with its declaration made upon ratification of the Optional Protocol, by which the State party declared "its commitment to retaining 18 years as the minimum age for voluntary recruitment into the Yemeni armed forces, as well as to retaining the ban on the compulsory or voluntary recruitment of any person under 18 years of age", by expediting the adoption of the amendments proposed to its legislation on military matters, in conformity with international standards, and by taking all the necessary measures for the full and effective application of the Optional Protocol.**

Coordination

8. The Committee notes that the Higher Council for Motherhood and Childhood has been tasked with the overall coordination of the implementation of the Optional Protocol. However, it is concerned that the Higher Council has not been sufficiently empowered to be able to efficiently execute its coordination mandate at all levels and in all sectors in the State party.

9. **The Committee urges the State party to ensure the allocation of adequate human, technical and financial resources to the Higher Council for Motherhood and Childhood, and provide it with the necessary level of authority so as to enable it to efficiently carry out its coordination work, including with the Ministry of the Interior and the Ministry of Defence.**

Dissemination and awareness-raising

10. The Committee notes the information provided by the State party with respect to its efforts to raise awareness of the provisions of the Optional Protocol. However, it remains

concerned that awareness of the principles and provisions of the Optional Protocol is low among the public at large, and in particular children.

11. **The Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated among the general public, in particular among children and their families.**

Training

12. The Committee regrets the lack of information on the extent to which training programmes for members of the Armed Forces, law enforcement officials and other professionals in related fields cover human rights standards and, in particular, the provisions of the Optional Protocol.

13. **The Committee recommends that the State party provide systematic training for members of its Armed Forces and law enforcement officials on human rights and the provisions of the Optional Protocol, as well as on international humanitarian law. It further recommends that the State party develop training programmes on the provisions of the Optional Protocol for relevant professional groups working with children, notably prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, media professionals and local and district officials.**

Data collection

14. The Committee notes with concern the absence of data on all areas covered by the Optional Protocol, in particular on the number of children recruited or used in hostilities and those that have been demobilized and reintegrated into society.

15. **The Committee recommends that the State party establish a data collection system in order to ensure the systematic collection and analysis of data on children, disaggregated inter alia by age, sex, geographical area and socioeconomic background and covering all areas of the Optional Protocol, and that it seek the assistance of relevant United Nations agencies and programmes, including the United Nations Children's Fund (UNICEF), in this regard.**

Right to life, survival and development

16. The Committee expresses its deep concern at the high risk of children being killed and maimed by mines, unexploded ordnance, explosive remnants of war, suicide attacks, improvised explosive devices and crossfire between the State party's Armed Forces and armed groups. It is further concerned at the high number of child casualties between July 2011 and March 2013, which, according to information provided to the Committee, amounts to more than 500 children killed or injured in incidents due to or related to the conflict in the State party. The Committee is concerned about reports indicating that, during the 2011 civil unrest, children also died as a result of inhaling tear gas. It is deeply concerned at reports indicating that children are subjected to sexual violence, including rape, which is attributed to all parties to the conflict, in particular to the armed groups. While the Committee welcomes the information provided by the State party during the constructive dialogue that took place that its Parliament had discussed potential measures to reduce the impact of drone strikes on civilians, the Committee is deeply concerned, inter alia, at the reported deaths of, maiming of and negative psychological impact on children as a result of drone strikes in the State party.

17. **The Committee reminds the State party of its primary responsibility to protect its civilians, particularly children, which should be prioritized in all military operations. It also reminds the State party that it should prevent civilian casualties in**

accordance with the requirements of distinction, discrimination, proportionality, necessity and precaution. It urges the State party to:

(a) Expedite the renewal and expansion of its mine action programmes, including robust strategies to effectively halt the deployment of unexploded devices in civilian areas, as recommended by the Secretary-General, in his report on children and armed conflict in Yemen (S/2013/383, paras. 84 and 85), and prioritize their implementation; and provide adequate care and assistance to survivors, including through the adoption of child-friendly programmes for survivors;

(b) Take practical measures to ensure that cases of killing and maiming of children and of sexual violence perpetrated against children are promptly investigated and that perpetrators are prosecuted and sanctioned;

(c) Undertake all the necessary and systemic measures to prevent and address the violations of children's rights as a result of drone strikes.

IV. Prevention

Age verification procedures

18. The Committee expresses its concern that recruitment procedures are not standardized and are often applied at the discretion of individual unit commanders, who do not always attempt to verify the ages of incoming recruits owing to, inter alia, the practice of their being provided with material incentives such as equipment according to the number of soldiers in their units. It is further concerned about the ineffectiveness of the age verification process, which is exacerbated by the very low level of birth registration and the forgery of birth certificates in the State party.

19. **The Committee reiterates its recommendation (CRC/C/YEM/CO/4, para. 38) that the State party should continue and strengthen its efforts to ensure the birth registration of all children. The Committee also urges the State party to standardize recruitment procedures, incorporate into recruitment procedures an effective age verification system and ensure the implementation of those procedures to effectively prevent children from being into the Armed Forces. The Committee further recommends that the State party issue guidelines on verifying age and instruct recruiters that, where an individual's age is in doubt, that person should not be recruited.**

Voluntary recruitment

20. The Committee welcomes the fact that Act No. 23 (1990) on the General Reserve and Act No. 15 (2000) on the Police Service set at 18 years the minimum age for admission into the military reserves and the police. However, it is concerned that Act No. 67 (1991) on service in the Armed Forces and the security forces, which establishes enlistment conditions for volunteers, does not contain an explicit provision setting a minimum age for voluntary recruitment.

21. **The Committee recommends that the State party adopt the proposed amendments to its military laws as soon as possible, including Act No. 67 (1991), to ensure that the age for voluntary recruitment into the Armed Forces is set at 18 years. It further recommends that the State party provide in its next periodic report information on the number and percentage of recruits under 18 years of age, if any, to the Armed Forces, and on reported cases of recruitment irregularities, the nature of the complaints received and sanctions undertaken.**

Recruitment and use of children in the State party's Armed Forces

22. The Committee is seriously concerned that the State party, through its Armed Forces, bears direct responsibility for the recruitment and use of children in hostilities, as reported by the Secretary-General in his report on children and armed conflict (A/66/782-S/2012/261, para. 164) and his report on children and armed conflict in Yemen (S/2013/383, paras. 24 and 25). It is particularly concerned that this has long been a practice within the Armed Forces and that the problem is exacerbated by poverty — as families enlist their children in the Armed Forces for financial reasons — and by the belief that the bearing of arms, including by children, is linked to masculinity and tribal honour. The Committee expresses its serious concern about the presence of children within the Armed Forces, the abolished First Armoured Division and the Republican Guard, which constitutes a grave breach of the State party's obligations under the Optional Protocol.

23. **The Committee, in line with the Secretary-General's recommendations (S/2013/383, para. 80), urges the State party to carry out comprehensive screening of the Armed Forces, the dismantled First Armoured Division and the Republican Guard as part of the ongoing restructuring of its Armed Forces, so as to ensure that no child is integrated into the army. It recommends that the State party:**

(a) Ensure the effective implementation of the Presidential Decree prohibiting the recruitment of children in the Yemeni Armed Forces (November 2012);

(b) Take all the necessary measures to ensure the effective and timely implementation of the action plan to end and prevent the recruitment and use of children in the Yemeni Armed Forces (2013);

(c) Remove from service individuals suspected of recruiting or using children in hostilities, or other serious human rights violations, pending completion of investigations against them;

(d) Develop and implement an awareness-raising campaign for the public on the risks posed by the high circulation of weapons among children, and the risks of the recruitment and use of children in armed conflicts, with a view to changing traditional attitudes and beliefs harmful to children.

Recruitment and use of children by pro-Government tribal militias and armed groups

24. The Committee is deeply concerned that pro-Government tribal militias and armed groups are directly involved in and rely on the recruitment and use of children in hostilities. It is particularly concerned that, in 2011, children represented approximately 15 per cent of the recruits of the pro-Government tribal militias. Those recruits included girls, who were used to gather intelligence, cook or carry detonators, as reported by the Secretary-General in his report on children and armed conflict (A/65/820-S/2011/250, para. 197).

25. **The Committee reminds the State party of its primary responsibility under international law, and in particular the Optional Protocol, to prevent the recruitment of children and their use in hostilities and other human rights abuses by pro-Government tribal militias and armed groups, as these militias and groups are being supported by or are allied with the State party. It urges the State party to:**

(a) Prohibit any military, financial or logistical support being provided to pro-Government tribal militias and armed groups, which allegedly recruit or use children in hostilities or commit other human rights abuses;

(b) Carry out screening to identify all children recruited by pro-Government tribal militias and armed groups, ensure their release and provide them with adequate support for their recovery and reintegration;

(c) Conduct investigations and prosecute and punish perpetrators.

Recruitment and use of children by non-State armed groups

26. The Committee welcomes the pledge made by the Al-Houthi armed group to bring to an end the grave violations committed against children, release the children within its ranks and reintegrate them into civilian life, following the visit of the Special Representative of the Secretary-General for Children and Armed Conflict in November 2012. However it expresses deep concern about the continuous recruitment and use of children in hostilities by this group to, inter alia, man checkpoints or combat pro-Government tribal militias. It is further concerned that children's involvement with Al-Houthi is accepted by their family members and local communities in areas controlled by the armed group, as such involvement is perceived, including by children, as an obligation to protect the land and the family.

27. The Committee expresses its deep concern about the continuous recruitment and use of children in hostilities by the Ansar al-Sharia armed group. It is very concerned at reported instances of boys being recruited so they can be sexual exploited and abused, and at cases of sexual violence, including rape, against girls who have been forced into marriage with members of Ansar al-Sharia.

28. **The Committee reminds the State party of its obligations under the Optional Protocol to take all the necessary measures for the release of children associated with non-State armed groups, and to ensure the recovery and reintegration of these children and the inclusion of the prohibition of the recruitment of children and their use in hostilities in all peace or ceasefire negotiations and agreements with armed groups, in line with the operational guidelines on addressing children's issues in peace agreements (see A/68/267, paras. 81–87). It also urges the State party to take specific and firm measures to ensure that cases of sexual violence against children and sexual exploitation and abuse, as well as other human rights abuses, are promptly investigated and that the perpetrators are prosecuted and punished.**

Attacks on and/or occupation of protected civilian objects

29. The Committee is concerned at the deliberate attacks on and occupation of schools and hospitals by all parties to the conflict and the denial of humanitarian access, all of which have a negative impact on the survival and development of children.

30. **The Committee urges the State party to: ensure that the relevant domestic legislation explicitly prohibits the occupation and use of, and attacks on, schools and hospitals, in line with international humanitarian law; expedite the reconstruction of these facilities as appropriate; and take practical measures to ensure that cases of unlawful attacks on and/or occupation of schools and hospitals are promptly investigated and that the perpetrators are prosecuted and punished.**

V. Prohibition and related matters

Criminal legislation and regulations in force

31. The Committee is concerned that the State party's domestic legislation does not prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 years by non-State armed groups under any circumstances. It regrets that the State party's

legislation does not contain an explicit provision criminalizing the recruitment and use of children under 18 years in the national Armed Forces in wartime or peacetime.

32. **The Committee recommends that the State party ensure that the package of amendments to its legislation on military matters, including the Criminal Code, explicitly prohibit and criminalize the recruitment or use in hostilities of children under the age of 18 by the Armed Forces and non-State armed groups. It urges the State party to expedite the adoption and implementation of such amendments. It also recommends that the State party ratify the Rome Statute of the International Criminal Court.**

33. The Committee notes as positive the fact that, according to information provided by the State party, the mandate of the Commission of Inquiry — tasked to investigate human rights violations committed during the 2011 civil unrest in the State party — covers the investigation of allegations of the use and recruitment of children. However, it expresses its concern at the considerable delays in the appointment of the commissioners and the execution of the Commission's mandate since its establishment in September 2012.

34. **The Committee recommends that the State party expedite the appointment of the commissioners of the Commission of Inquiry, and support its work with a view to investigating and addressing possible violations of the Optional Protocol.**

Extraterritorial jurisdiction

35. The Committee notes the lack of information in the State party's report about the possibility of establishing extraterritorial jurisdiction in cases of recruitment or involvement in hostilities of a child under the age of 18 years.

36. **The Committee recommends that the State party take all the necessary steps to ensure, in particular through the currently proposed amendments, that its domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol, including the recruitment and use in hostilities of children under the age of 18, when these offences are committed by or against a person who is a citizen of or has another pertinent link with the State party.**

VI. Protection, recovery and reintegration

Demobilization and reintegration

37. The Committee notes the information provided by the State party during the dialogue that a number of children who were recruited and used in hostilities by the Armed Forces, in particular by the dismantled First Armoured Division, have been identified and released. However, it expresses serious concern at the delegation's statement during the dialogue with the Committee that those children have been held in prison so as to prevent them from again being recruited and used in hostilities at the request of their parents. It is also concerned at the lack of detailed information on the specific measures in place to ensure the release, recovery and reintegration of children associated with State Armed Forces, as well as of children, including girls, associated with pro-Government armed groups and tribal militias and non-State armed groups, such as Al-Houthi and Ansar al-Sharia.

38. **The Committee urges the State partyto develop, in line with the action plan to end and prevent the recruitment and use of children in the Yemeni Armed Forces, a programme to ensure the identification, release, recovery and reintegration of all children, including girls, who have been recruited or used in hostilities by all parties involved in the conflict, and immediately ensure their effective and transparent**

demobilization. It further urges the State party to provide these children with immediate and child- and gender-sensitive multidisciplinary assistance for their physical and psychological recovery. The State party is requested to provide further information on measures adopted in this regard in its next report under the Convention on the Rights of the Child.

Treatment of children associated with armed groups

39. The Committee is concerned at the lack of information on the number of children who have been prosecuted or are awaiting prosecution for their alleged participation in the 2011 civil unrest, the 2011–2012 conflict in Abyan and the 2004–2010 conflict in Sada'a. It is further concerned at the lack of information on: whether the cases of these children have been referred to the specialized penal court; the crimes with which they have been charged; and the sentences passed.

40. **The Committee urges the State party to ensure that:**

(a) Children are not arbitrarily arrested, detained or prosecuted by military courts for their membership in armed groups or for military offences such as desertion;

(b) Captured child soldiers are always treated in accordance with international human rights and humanitarian law and promptly handed over to child protection actors;

(c) The detention of children is only used as a measure of last resort and for the shortest possible period of time;

(d) Children deprived of their liberty as a consequence of their involvement in hostilities are treated with humanity and with respect for their inherent dignity;

(e) If criminal charges are brought against children, trials must be held before civilian courts and in compliance with international standards on juvenile justice, including the standards enshrined in the Convention on the Rights of the Child and illustrated in the Committee's general comment No. 10 (2007) on the rights of the child in juvenile justice;

(f) No child is sentenced to death or to life imprisonment.

VII. International assistance and cooperation

41. **The Committee welcomes the State party's cooperation with the United Nations and recommends it to continue and strengthen such cooperation, in particular with the Special Representative of the Secretary-General for Children and Armed Conflict. The Committee also recommends the State party to strengthen its cooperation with the International Committee of the Red Cross and that it explore the possibility of increasing cooperation with the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights and other United Nations entities in the implementation of the Optional Protocol.**

VIII. Ratification of the Optional Protocol on a communications procedure

42. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

IX. Follow-up and dissemination

43. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry of Defence, the Supreme Court and to local and tribal authorities, for appropriate consideration and further action.**

44. **The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol, and its implementation and monitoring.**

X. Next report

45. **In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in the next periodic report it submits, in accordance with article 44 of the Convention on the Rights of the Child.**